

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**MATTHEW M. JACKSON,**

**Petitioner,**

**v.**

**TOMMY MILLS, WARDEN,**

**Respondent.**

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**No. 3:08-0139  
Judge Trauger**

**ORDER**

The court has before it a petition for a writ of *habeas corpus* filed by a *pro se* prisoner pursuant to 28 U.S.C. § 2254. (Docket Entry No. 1)

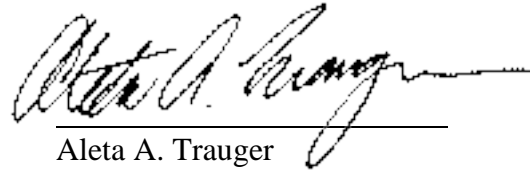
As provided in the Memorandum entered contemporaneously herewith, the petition and record of prior proceedings clearly show that the petitioner is not entitled to relief. Therefore, the respondent's motion to dismiss (Docket Entry No. 14) is **GRANTED**, the petition (Docket Entry No. 1) is **DENIED**, the petitioner's motion for preparation and designation of record (Docket Entry No. 4) is **DENIED** as moot, and this action is **DISMISSED** with prejudice. Rule 8(a), Rules – Section 2254 Cases.

For the reasons explained in the accompanying Memorandum, should the petitioner file a notice of appeal, such notice shall be docketed as both a notice of appeal and an application for a certificate of appealability, *Slack*, 529 U.S. at 483; Rule 22(b), Fed. R. App. P., which will **NOT** issue, *see* 28 U.S.C. § 2253(c)(2); *see Castro v. United States of America*, 310 F.3d 900, 901 (6<sup>th</sup> Cir. 2002); *Murphy v. Ohio*, 263 F.3d 466, 467 (6<sup>th</sup> Cir. 2001); *Porterfield v. Bell*, 258 F.3d 484, 485-487 (6<sup>th</sup> Cir. 2001); *Lyons v. Ohio Adult Parole Auth.*, 105 F.3d 1063, 1073 (6<sup>th</sup> Cir. 1997)(overruled in part on other grounds by *Lindh v. Murphy*, 521 U.S. 320, 326-27 (1977)).

Notwithstanding that an appeal from the judgment in this action would not be taken in good faith, 28 U.S.C. § 1915(a)(3), should the petitioner seek to appeal the judgment of the court, he must either pay the full four hundred fifty-five dollar (\$455.00) appellate filing fee, or submit a new application to proceed *in forma pauperis* to this court.

Entry of this Order shall constitute the judgment in this action.

It is so **ORDERED**.

A handwritten signature in black ink, appearing to read 'Aleta A. Trauger', written over a horizontal line.

Aleta A. Trauger  
United States District Judge